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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,545	11/03/2000	Peter T. Aylward	79797PAL	8710

1333 7590 11/12/2002

PATENT LEGAL STAFF  
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EXAMINER

SCHILLING, RICHARD L

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 11/12/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/705,545

Applicant(s)

Aylward et al

Examiner

RL Schilling

Group Art Unit

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 10-29-00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 22-28, 33-37, 39-41 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 22-28, 33-37, 39-41 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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1. Claims 22-28, 33-37 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Trautweiler et al., Tingler et al. '014 and Tingler et al. '505 for the same reasons as set forth in paragraph 2 of the last Office action filed July 24, 2002.

2. Claims 22-28, 33-37 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of European Patent 1003073 with Tingler et al. '014 and Tingler et al. '505 for the same reasons as set forth in paragraph 3, first occurrence, of the last Office action filed July 24, 2002.

3. Claims 22-28, 33-37 and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bourdelais et al. '310 in view of Tingler et al. '014 and Tingler et al. '505 for the same reasons as set forth in paragraph 3, second occurrence, of the last Office action. Since Bourdelais et al. '310 is only available as a reference under 35 U.S.C. § 102, paragraph (e), this rejection can be overcome by a statement from applicants' representative that the invention of the instant claims was subject to common assignment with Bourdelais et al. '310 at the time the invention was made.

4. Applicants' arguments filed October 29, 2002 have been fully considered but they are not deemed to be persuasive. Applicants' argument that there is no disclosure in Trautweiler for protective backing layers is unconvincing since the two

Tingler et al. patents would motivate one skilled in the art to add anti-static layers and their protective layers to the backs of the transparent polymer sheets of Trautweiler et al. in order to provide anti-static protection to the elements of Trautweiler et al. during processing and film handling. The two Tingler et al. patents teach the use and need for anti-static layers and their protective layers on opposite sides of supports from silver halide emulsion layers. The upper surface of the transparent sheet in Trautweiler in the final image product is the back surface of the transparent sheet from the silver halide emulsion layer during film handling and processing. One skilled in the art would be motivated to use the anti-static layers in Trautweiler with their protective layers to provide anti-static protection during film handling and processing since the two Tingler et al. patents disclose that static is a serious problem in photographic film and paper not limited to motion picture films. Applicants' argument that the two Tingler et al. patents do not teach fingerprint and liquid spill protection is unconvincing. The additional secondary advantages of fingerprint protection and liquid spill protection does not make the instant claims patentable since combining the references for anti-static protection would still be obvious to one skilled in the art. The protective layers in the two Tingler et al. patents would inherently provide fingerprint and liquid spill protection

particularly since the protective layers in Example 1 of Tingler et al. '014 use anti-static and protective layer compositions substantially the same as those used in Example 1 of applicants' specification. In regard to the rejection using European Patent Publication 1003073, the European patent publication discloses the need for anti-static backing layers on its transparent supports in order to successfully transport the photographic elements during manufacturing and processing. Using the anti-static layers and their protective layers of the two Tingler et al. patents as the called for anti-static layers in the European patent publication would inherently provide at least some fingerprint and liquid spill protection particularly since Tingler et al. '014 uses substantially the same protective layers as Example 1 in applicants' specification. Applicants' argument that the protective layers must be transparent for viewing in Trautweiler et al. is unconvincing since the anti-static and protective layers of the two Tingler et al. patents are required to be highly transparent and one skilled in the art would recognize the need for transparency for viewing images in Trautweiler et al. The anti-static layers of the two Tingler et al. patents are disclosed as being used in both photographic transparency materials and photographic elements with opaque supports.

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4c+4f

Claims 22-28, 33-37 and 39 are rejected under 35 U.S.C. § 102(e) as being anticipated by Aylward et al. '164.

The applied reference has a common assignee and inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. § 102(e). This rejection under 35 U.S.C. § 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131. Aylward et al. (see particularly column 3, lines 9-20; column 6, lines 30-47; column 9, line 52 - column 10, line 42; column 11, lines 15-28) disclose imaged photographic elements comprising an opaque reflective base, image silver halide emulsion layers and a transparent polymer sheet. The transparent polymer sheet is preferably provided with shield layers to

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protect from fingerprints, scratching and static. The developed image layers, which are coated on both sides of the transparent polymer sheet, are provided with environmental protective layers for liquid spills and handling. The protective layers on the imaged silver halide emulsion layers opposite from the reflective base would be an upper protective shield. The shield layer on the transparent polymer sheet opposite from the reflective base is also an upper protective shield layer. Also, Aylward discloses folding the developed photographic element around a reflective base and adhering to the base to form album pages.

6. Any inquiry concerning this communication should be directed to Mr. Schilling at telephone number (703) 308-4403.

RLSchilling:cdc

November 6, 2002

RICHARD L. SCHILLING  
PRIMARY EXAMINER  
GROUP 1400-1752

